



KŪKULU KE EA A KANALOA

KAHO'OLawe ISLAND RESERVE COMMISSION

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COMMISSION MEMBERS

NOA EMMETT ALULI, M.D.
Chairperson
CRAIG NEFF
Vice-Chair
MILTON M. ARAKAWA, A.I.C.P.
CHARLES PMK BURROWS, Ed.D.
LAURA H. THIELEN
JOHN D. WAIHE'E, IV
AMBER NĀMAKA WHITEHEAD

Michael K. Nāho'opi'i
Executive Director

MINUTES OF THE MEETING

March 10, 2009

8:00 AM

Office of Hawaiian Affairs
Boardroom, 5th Floor
711 Kapi'olani Boulevard
Honolulu, O'ahu, Hawai'i

COMMISSION MEMBERS

PRESENT: N. Emmett Aluli, Chairperson; Craig Neff, Vice-Chair; Nāmaka Whitehead; Milton Arakawa; and John Waihe'e
EXCUSED: Laura Thielen; Charles Burrows
KIRC STAFF: Michael Nāho'opi'i, Executive Director (ED); Michele McLean, Deputy Director (DD); Ka'ōnohi Lee, Administrative Officer (AO); Rowena Somerville, Deputy Attorney General (DAG); Nicole McMullen, Commission Coordinator (CC)

GUESTS: Colette Machado – OHA; Kylee Omo and Keoni Fairbanks – PKO

I. CALL TO ORDER

Chair Aluli called the 2nd regular meeting for the year 2009, to order at 8:25 am followed by *Pule Na 'Aumakua*. A quorum was established with five commissioners present.

II. APPROVAL OF AGENDA

MOTION: Commissioner Arakawa moved to approve the agenda. Commissioner Neff seconded the motion.

ACTION: Motion approved by all Commissioners present.

III. APPROVAL OF MINUTES

The Commission reviewed the draft meeting minutes from February 11, 2009. Chair Aluli asked that the staff update the Commission on the research into the tadpole shrimp. ED Nāho'opi'i said that the ponds had dried up and they were not able to collect more specimens. DD McLean asked that a policy be implemented so that staff could collect specimens for identification purposes without Commission approval so as not to lose the opportunity. Chair Aluli agreed and said that it was also important that the policy include emergency response for environmental problems such as stranded animals and alien species control. DD McLean said that they would draft a policy for a future meeting.

MOTION: Commissioner Arakawa moved to approve the minutes. Commissioner Waihe'e seconded the motion.

ACTION: Motion approved by all Commissioners present.

IV. COMMUNITY and PUBLIC COMMENT

Chair Aluli asked if there were public comments. Colette Machado of the Office of Hawaiian Affairs handed out copies of the OHA annual report and calendars. She complimented ED Nāho‘opi‘i on the KIRC Year-In-Review that was distributed before the meeting. ED Nāho‘opi‘i reported a voicemail from Kim Birnie of the PKO asking about the discussion on commercial images agenda item. ED Nāho‘opi‘i said he would update her after the meeting.

V. ADMINISTRATIVE BUSINESS

A. Executive Director’s Report

Budget, Finance and Funding: ED Nāho‘opi‘i reported that he and Grant Writer Jackie Harp attended a series of meetings in Honolulu on March 4th. They met with BCR and discussed a series of revenue generating projects. They next met with J. Koshiba of Kanu Hawaii who suggested partnering with the Kellogg Foundation and invited KIRC to make a presentation at the Hawaii Executive Conference. Commissioner Arakawa asked about their connection to the Kellogg Foundation. ED Nāho‘opi‘i said that Kanu Hawaii was trying to connect with community partners to develop funding opportunities. Kylee Omo, a board member of Kanu Hawaii, said that the Executive Conference was a unique opportunity, by invitation-only, and that they were interested in environmental, cultural and educational issues. She said that it would be a good opportunity for KIRC to present information, but not to fundraise. **Chair Aluli said that it would make good connections and to keep him in the loop about the conference.** ED Nāho‘opi‘i said that the Kellogg Foundation was interested in discussing water and other resource issues and was interested in collaborating with other organizations. He said that he and Ms. Harp also met with Hawaii Community Foundation and they were willing to take KIRC’s message into the community with their initial pitches. He said that the meetings were to gauge the funding climate and that there were gifting opportunities available that were not affected by the current financial crisis. He said that Grant Writer Harp was tapping into them.

Plans, Policies and Procedures: ED Nāho‘opi‘i reported that the Early Warriors video was in the second draft phase. A copy was given to Davianna McGregor and there have been showings on-island and at the KIRC office. ED Nāho‘opi‘i said that he wanted to show the film over lunch at the April Commission meeting. He said that Matt Yamashita of Quazifilms Media still needed final inputs and copyright approvals for images, but that it was close to the finished product. **Chair Aluli asked Colette Machado to review the film.** Commissioner Neff asked if the finished product would belong to KIRC, and ED Nāho‘opi‘i said that it would.

ED Nāho‘opi‘i reported that Pua Kanahale was taking the Cultural Use Plan to a professional editor. He said that they discussed training and that she would work with staff on developing it. She did not want to start earlier than August. She wanted the training to include going to the places she visited to study the alignments during the solstices and equinox and a training session on each of the papas. Chair Aluli said that the plan creates a new use and level of study for Kaho‘olawe. He said that the development of different schools of research and the use of ancestral memory was very exciting for Kaho‘olawe. Commissioner Neff explained that the training would produce cultural experts in different fields for the island and elevates the status of Kaho‘olawe. Ms. Machado said that the plan would be a very useful tool for fundraising. Commissioner Whitehead said that she participated in similar training using the same schools of knowledge for educators and practitioners and that the plan would be a foundation for much of the work that they do.

Administration, Staffing and Personnel: ED Nāho‘opi‘i reported that they met with PKO representatives to finalize amendments to the ‘Aelike Stewardship Agreement. It was being circulated for signature and would come to the Commission to sign at the next meeting. They also discussed more partnership projects and the use of Honokanai‘a base camp by the PKO during the kitchen construction. Chair Aluli thanked DAG Somerville for overseeing the agreement process. ED Nāho‘opi‘i said that they also discussed goals for the Alaloa trail flagging at the meeting with the PKO representatives.

ED Nāho‘opi‘i then discussed the CIP Task Force meeting. The task force wanted to gather inputs for a master plan for Honokanai‘a and have a draft by this summer. The task force also discussed the Hakioawa kitchen and putting the Kihei site entitlements process on hold. At the meeting Commissioner Burrows stressed rearranging the trailers at the ROC. Zapata had also consolidated to a single hut and supplies will be moved mauka to open the lower ocean view. They also reviewed photos of the Hut 10 progress.

ED Nāho‘opi‘i said that Commissioner Burrows was concerned that PKO members understand how large the new kitchen would be. Chair Aluli asked about the timeframe for the work. ED Nāho‘opi‘i said that they hoped to release the RFP in April, award a contract by June and begin construction in August. **Chair Aluli asked that staff map out a timeline for the next meeting.** ED Nāho‘opi‘i said that construction should be finished in three or four months and would hopefully be finished by Makahiki.

Commissioner Whitehead said that there were still concerns over traditional design elements. Commissioner Neff said that Uncle Harry designed the original kitchen and they would like to honor him. He said that aesthetic of the building was important and it would have an affect on those who used it. DD McLean said that the building functionality was very good, but it would feel very different. She said that they should make sure it is the right decision. Chair Aluli asked that the RFP include the aesthetic questions and concerns. Commissioner Arakawa said to make sure the RFP was set before it went out. ED Nāho‘opi‘i said that he would like to have another task force meeting to discuss design options that could be incorporated that were removed in earlier planning meetings.

Governmental Relations: ED Nāho‘opi‘i reported that he was contacted by Becky Hommon, Counsel for Commander, Navy Region-Hawaii, regarding the Navy’s land use controls evaluation. He said that the Navy had been given funding for the review and would like to observe the KIRC’s briefings, access procedures and ground markers and provide recommendations for improvement. He said that they both want it to be a positive joint venture, and he hopes that it would expand and not restrict meaningful use of Kaho‘olawe. ED Nāho‘opi‘i also said that the evaluation could endorse their safety process, and they could be a model for others across the country. He said that he would like to redevelop the ARMP since KIRC has had five years of experience working under it.

Commissioner Neff asked if the Navy was asking the KIRC’s permission for the evaluation. ED Nāho‘opi‘i said that the Navy has the right to conduct the evaluation according to the transfer documents between the Navy and the State of Hawai‘i. DAG Somerville commented that it would not be in the state’s best interest to say no. The process would confirm that they are doing the right thing for safety. ED Nāho‘opi‘i said that he was concerned that the contractors understand KIRC’s operations.

Commissioner Arakawa explained that the CIP Task Force chose to postpone the entitlements for the Kihei site until they were on better financial footing. Chair Aluli asked if there had been

community discussions. DD McLean explained that they were only preliminary and that the neighbors to the site were supportive. She said that they have to consider all possible uses including revenue generating possibilities for the site and any future changes to the organization. She said that the entitlements would need to include all of those things and would be expensive.

DAG Somerville asked if Hut 10 was finished. DD McLean said that she hoped the volunteer carpenters would be finished by the end of April. Chair Aluli said that it would be an opportunity for the Commission to meet on Kaho'olawe to discuss the future vision for Kaho'olawe and to see the completed project. Commissioner Arakawa said that the CIP task force wanted to see what design elements are wanted now for Honokanai'a and that Hut 10 and the Cultural Plan would help in the design of the master plan. DD McLean said that the proposed FY10 budget had money to renovate another hut, but not for the Kihei entitlements.

Action Plan: ED Nāho'opi'i reviewed the Action Plan goals chart. He said that since January they have published the strategic plan, implemented vessel registration and an outreach calendar, started Hut 10 construction, and consolidated base camp staff into one hut. He also said that staff had started planting agricultural crops ('uala) at Lua Makika.

Chair Aluli asked about the February goal for traditional marine observations. DD McLean said that the ocean staff was conducting aerial surveys during different moon phases. Commissioner Whitehead asked how valuable the data would be if collected in different seasons. **DD McLean said that the staff could discuss their research at the April meeting. Commissioner Whitehead said that she would like to see a plan for how the data would be collected and analyzed.** ED Nāho'opi'i said that they were also working on a traditional subsistence fishing plan that would define traditional fishing practices and develop the procedures to close or open areas for traditional fishing.

V. ADMINISTRATIVE BUSINESS

B. Review and Acceptance Budget and Finance Report as of January 31, 2009

ED Nāho'opi'i reviewed the budget report. He said they were at 58.3% of expected spending for FY09. The Operations Program was the only program exceeding the budget as described in the variance report. Due to problems with late invoicing, they will be more on top of contractors. There were major repairs to the KIRC vessels, and they were covered under warranty. He expects the cost for supplies to be 1½% higher than budgeted. They will come to the Commission for a budget adjustment, taking the amount from another area. DD McLean said that they still expect to come in under budget. ED Nāho'opi'i said that they want to reduce encumbrances to have a bigger pool for interest.

Chair Aluli asked that notes be taken at the Budget and Finance Task Force meetings.

Commissioner Arakawa said that the budget was on track and below what was proposed. ED Nāho'opi'i said that the goal for FY09 was a lean budget with all money accounted for. They plan to come in under budget, leading to another decrease the next fiscal year. Chair Aluli said that the Budget and Finance Task Force reviewed the proposed FY10 budget and the priorities outlined by the staff. Commissioner Arakawa said that they discussed contracts that could be canceled that would also increase the investment pool. Chair Aluli said that the task force was helping the Commission take more responsibility for budget reporting.

MOTION: Commissioner Neff moved to approve the Budget and Finance Report as of January 31, 2009. Commissioner Arakawa seconded the motion.

ACTION: Motion approved by all Commissioners present.

VI. ACTION ITEMS

A. Discussion on Commercial Use of Kaho‘olawe Images

ED Nāho‘opi‘i explained the background of the issue. A photographer was flying around Kaho‘olawe taking hundreds of pictures of the coastline and posting them for sale on his website. At issue was access to and cultural sensitivity of the areas. Commissioner Neff had called the photographer. Commissioner Neff reported that the photographer had also been approached by other property owners. The photographer said that he knew the laws and was not interested in any cultural information that the KIRC could provide. He also told Commissioner Neff to look at Google Earth. Chair Aluli said that he was concerned about enforcement issues and had wanted to see how they could get the photos off of the internet, but that perhaps he had overreacted.

Commissioner Arakawa asked if the airspace above Kaho‘olawe was part of the Reserve. DAG Somerville replied that it was not under their jurisdiction and was open. She suggested that they call an executive session if they wanted to discuss the Commission’s liabilities. ED Nāho‘opi‘i said that the federal restricted airspace designation ended with the Navy transfer. DAG Somerville explained that national parks have restricted airspace, but there are no applicable designations for Kaho‘olawe or applicable temporary airspace restrictions such as for emergency response or homeland security designations. ED Nāho‘opi‘i said that airspace had been restricted for tour helicopters in residential areas due to nuisance complaints. Chair Aluli said that they should look into airspace restrictions for Kaho‘olawe in the future. Commissioner Neff said that a group on Kauai was affective by approaching helicopter tour companies about particular mana spots. ED Nāho‘opi‘i said that PacHelo had been a good influence in the community, but the problem was with private owners that did not understand the importance and sensitivity of Kaho‘olawe.

MOTION: At 9:45am Commissioner Neff moved to enter into Executive Session, pursuant to HRS Chapter 92-5a(4) the Commission will resolve into executive session to consult with its legal counsel and staff on issues pertaining to the boards powers, duties, privileges, immunities, and liabilities. Commissioner Arakawa seconded the motion.

ACTION: Motion approved by all commissioners present.

Commissioners Aluli, Neff, Arakawa, Whitehead and Waihe‘e and ED Nāho‘opi‘i, DAG Somerville, DD McLean, AO Lee and CC McMullen resolved into executive session.

MOTION: At 10:15am Commissioner Arakawa reported out of Executive Session. Commissioner Neff seconded the motion.

ACTION: Motion approved by all commissioners present.

VI. ACTION ITEMS

B. Establish Policy for Legislative Commission Testimony

DAG Somerville explained the rules regarding testimony submitted by the Commission. In order for any legislation to be discussed or voted on at the meeting it must be agendized. A board cannot offer testimony without voting on it. If a task force was assigned, they could submit testimony. She suggested that if the Commission was interested in submitting testimony,

they should create a task force in December to look at all applicable bills. Chair Aluli asked if the same applied to resolutions, and DAG Somerville said that it did, and that anything submitted by a board must be voted on. They could also have the ED submit testimony on their behalf. She said also that anyone could submit testimony as an individual. **DAG Somerville said that she would have a recommendation for the creation of a task force at the next meeting.** She then gave an update on the asset forfeiture bill and said that the ruling in the Noa trespass case was scheduled for April 3rd.

VI. ACTION ITEMS

C. Authorize Executive Director to Hire Cultural Resources Project Coordinator Candidate as Recommended by Interview Board

MOTION: At 10:30am Commissioner Arakawa moved to enter into Executive Session - Pursuant to HRS Chapter 92-4 & 5(a) (2) to consider the hiring of an employee where consideration of matters affecting privacy will be involved. Commissioner Whitehead seconded the motion.

ACTION: Motion approved by all commissioners present.

Commissioners Aluli, Neff, Arakawa, Whitehead and Waihe'e and ED Nāho'opi'i, DAG Somerville, DD McLean, AO Lee and CC McMullen resolved into executive session.

MOTION: At 10:40am Commissioner Neff reported out of Executive Session. Commissioner Arakawa seconded the motion.

ACTION: Motion approved by all commissioners present.

MOTION: Commissioner Neff moved to authorize the Executive Director to appoint the candidate recommended by the Personnel Task Force to fill the position of the Cultural Resources Project Coordinator, Position No.103109. Commissioner Arakawa seconded the motion.

ACTION: Motion approved by all Commissioners present.

Break 10:45am – 10:50am

VII. WORKSHOP

SUBJECT: FY10 Budget Planning

Chair Aluli said that the Budget and Finance Task Force reviewed the proposed FY10 budget and the priority projects from the staff. He said that it was bare bones and focused on the goals of the strategic plan. ED Nāho'opi'i said that the first draft they were presenting today reflected staff input and target goals. The strategic plan called for a \$5 million budget. The proposed budget is \$4.5 million and he thanked DD McLean for her work on it. The program staff prioritized their projects. He said that this was the lowest the budget could go and still accomplish the goals laid out in the action plans and to provide the same level of operations. To go below \$4.5 million, they would have to rethink the strategic objectives and reorganize the staff structure.

ED Nāho'opi'i handed out a budget analysis with pie charts showing personnel versus non-personnel costs. The program with the largest personnel costs was Administrative with nine staff

members. DD McLean said that the total number of staff was twenty-five. The largest non-personnel cost was the Operations Program, followed by Administrative, which included costs such as rent and electricity. ED Nāho‘opi‘i said that they were looking at ways to make the Operations more cost effective. He said that it was a concern that personnel costs were 45% of the operating budget.

He reviewed the FY10 budget spreadsheet and pointed out that projects include labor, travel, materials and other direct costs. He said that cutting a project line would not reduce staff time and it would have to be applied somewhere else. DD McLean clarified that cutting certain projects would not reduce costs if there are not outside costs involved. She asked if the Commission wanted to take another look at budget targets given the economic climate. She said that the senior staff was comfortable with the proposed budget and optimistic to have the new grant writer on board. They did not raise the funds that were called for in FY09. She suggested that they take a hard look at it in six months.

Commissioner Arakawa asked about the trust fund balance for the end of FY09. ED Nāho‘opi‘i said that the table did not include interest. **Chair Aluli asked that interest be included.** ED Nāho‘opi‘i said that when they do the quarterly trust fund report, he could update the projections. Commissioner Arakawa noted that they were predicting a substantial increase in fundraising in FY10. If they are not successful, they will be close to the \$10 million floor. He said that this will be a crucial year and that they need to be prudent and prepared for the huge task ahead.

Chair Aluli asked if they should be more conservative and look at a \$3 million budget, perhaps over the next three years. He said that Norma Wong challenged them to think ahead and be able to go back to basics. Commissioner Arakawa said that it would depend on what they want to accomplish. He said that they could have a similar operation to PKO, for example. DD McLean said that if there were fewer restoration staff, there would be fewer projects completed, fewer meals to prepare, and less cargo to transport. If there were fewer operation staff, there would be less support for programs and the PKO.

ED Nāho‘opi‘i asked if they were considering implementing a drastic reduction in the budget in the next year or later. He said that they would need a transitional period and that new procedures for maintenance and caretaking would have to be developed. ED Nāho‘opi‘i said that they needed to know what direction to go for the budget presentation in April. DAG Somerville said that they would have to have an approved budget in May.

Chair Aluli asked that staff come up with two scenarios, one reducing project costs further and one with a reduction in staff. He said that maybe they would get a better sense of project priorities from staff at the next meeting. Commissioner Neff asked if the prioritization of projects was recommended by staff or based on the strategic plan. DD McLean said that it was a combination and included grant obligations. ED Nāho‘opi‘i said that one model could be that they keep a small core staff and hire out for projects. He said that it was hard to get funding for administrative support and indirect costs would have to come from unrestricted donations. They also need to increase marketing exposure and visibility to generate funds.

Chair Aluli said they might have to look at downgrading the strategic plan. Commissioner Neff asked if the Commission should look at a different operation not focused on restoration and volunteers. ED Nāho‘opi‘i said that volunteers have been the focus because of the grants. Commissioner Neff said that they need to decide what the operation should look like in these lean times and what they need for survival mode. ED Nāho‘opi‘i said that they could shrink the core focus and go back to the mission. The restoration of Kaho‘olawe could focus on cultural and not physical. DD McLean added that the mission does not give a timeline for the

restoration. ED Nāho‘opi‘i said that they would have to look at the funding sources. They were a small organization, like a non-profit, and were at the whims of the market.

ED Nāho‘opi‘i said that he would provide a project model and operational structure based on a \$3 million target for the next meeting. **DD McLean said that they would present the proposed model brought down closer to \$4 million and then a model reflecting a structural change at \$3 million.** ED Nāho‘opi‘i said that they would indicate what had been removed and what could be added. DD McLean said that it would be helpful not to have labor included. **ED Nāho‘opi‘i said that he would do a full layout without labor costs.**

VIII. ANNOUNCEMENTS/FYI

The commissioners and staff discussed the April meeting and possible meeting dates in May. Chair Aluli noted that his and Commissioner Waihe‘e’s terms were over in June. He said that they needed to look at what talents should be on the Commission to continue the work. ED Nāho‘opi‘i said that they would have to seek nominations for Commissioner Burrows’ seat in the summer.

Upcoming Commission meetings:

Tues., April 7	Maui
Wed., May 5	HNL
Wed., June 10	HNL
Wed., August 12 (tentative)	Maui

IX. ADJOURNMENT

MOTION: Commissioner Neff moved to adjourn the meeting. Commissioner Waihe‘e seconded the motion.

ACTION: Motion approved by all Commissioners present.

The meeting adjourned at 11:50 a.m.